

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

LABORATORY CORPORATION OF)
AMERICA HOLDINGS,)
)
Plaintiff,)
)
v.) 1:14cv1029
)
WILLIAM G. KEARNS,)
)
Defendant.)

**CONSENT ORDER FOR TEMPORARY
RESTRAINTS AND EXPEDITED DISCOVERY**

On December 9, 2014, Plaintiff Laboratory Corporation of America Holdings ("LabCorp") filed a Motion for a Temporary Restraining Order and Preliminary Injunction, and for Expedited Discovery (the "Motion") seeking, *inter alia*, the entry of temporary restraints against Defendant William G. Kearns ("Kearns") in furtherance of certain restrictive covenants contained in Kearns' Employment Contract (the "Contract"), including covenants not to compete with LabCorp for one year following the termination of his employment at LabCorp and not to solicit customers or prospective customers of LabCorp with whom he had contact while employed at LabCorp for one year following the termination of his employment at LabCorp.

The court had set this matter for hearing on the Motion for December 18, 2014 at 2:00 p.m., and Defendant Kearns has

appeared through counsel.

In an effort to avoid the expenditure of unnecessary time and expense, but without compromising Plaintiff's claims and without prejudice to any defenses Kearns may have (including, without limitation, any and all defenses to the enforceability of the restrictive covenants contained in the Contract), the Parties consent to entry of the following Temporary Restraining Order:

1. As of December 22, 2014, Defendant Kearns, is restrained and enjoined from directly or indirectly through a subordinate, co-worker, peer, or any other person or entity, including but not limited to AdvaGenix LLC ("AdvaGenix"), contacting, soliciting or communicating with a customer or potential customer of LabCorp or its subsidiary or affiliated companies with whom Kearns had contact while employed at LabCorp for the purpose of (i) offering, selling, licensing or providing the same or substantially similar assays, commercial medical testing or anatomical pathology services offered and/or provided to such customer or potential customer by LabCorp or its subsidiary and affiliated companies or (ii) influencing said customer's or potential customer's decision on whether to purchase or use such assays, commercial medical testing or anatomical pathology services offered by LabCorp or its subsidiary and affiliated companies; and

2. As of December 22, 2014, Defendant Kearns, is restrained and enjoined from directly or indirectly consulting for, being employed by or otherwise engaged by any person, trade or business, including but not limited to AdvaGenix, either (i) involved in the research and development, licensing, production, distribution, or sale of preimplantation genetic diagnosis and testing that directly competes with LabCorp or any of its subsidiary and affiliated companies in the same geographic markets serviced by them or (ii) supplies, services, advises or consults with a person, trade or business involved in the research and development, licensing, production, distribution, or sale of preimplantation genetic diagnosis and testing that directly competes with LabCorp or any of its subsidiary or affiliated companies in the same geographic markets serviced by it.

3. This Consent Temporary Restraining Order is issued pursuant to Federal Rule of Civil Procedure 65(b) and shall expire upon the earlier of (1) the court's decision on the Motion for Preliminary Injunction, or (2) close of business on January 12, 2015 (unless the parties consent to extend the restraint beyond January 12 or the court orders otherwise).

4. The Parties shall engage in limited expedited discovery, including the production of documents and depositions. Defendant Kearns agrees to respond to pending

document requests by December 23, 2014, and to appear for deposition, in Bethesda, Maryland, on December 29, 2014. Plaintiff LabCorp agrees to work cooperatively with counsel for Defendant Kearns to produce discovery according to a schedule to be determined.

5. A hearing on Plaintiff LabCorp's Motion for Preliminary Injunction is set for January 12, 2015, at 10:00 a.m. in Winston-Salem, North Carolina in Courtroom No. 2.

6. Plaintiff LabCorp shall file any papers in further support of its Motion for a Preliminary Injunction on or before December 31, 2014. Defendant Kearns' Opposition to Plaintiff's Motion for a Preliminary Injunction shall be filed on or before January 5, 2015. Plaintiff's reply in further support of its Motion for a Preliminary Injunction shall be filed on or before January 8, 2015.

SO ORDERED.

/s/ Thomas D. Schroeder
United States District Judge

December 17, 2014
12:05 p.m.
Winston-Salem, North Carolina

CONSENTED TO:

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